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INTEL CORPORATION

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

FUZZYSHARP TECHNOLOGIES
INCORPORATED,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

Case No. 12-CV-4413 YGR

**INTEL CORPORATION'S ANSWER TO
PLAINTIFF'S COMPLAINT FOR
PATENT INFRINGEMENT AND
COUNTERCLAIMS**

DEMAND FOR JURY TRIAL

Defendant Intel Corporation ("Intel"), by and through its attorneys, for its Answer and Counterclaims to the Complaint for Patent Infringement by Plaintiff Fuzzyssharp Technologies Incorporated ("Plaintiff"), states as follows:

JURISDICTION AND VENUE

1. Intel admits that this case purports to be an action for patent infringement of United States Patent 6,172,679 ("the '679 Patent") and United States Patent 6,618,047 ("the '047 Patent").
2. Intel admits that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
3. Intel denies each and every allegation contained in Paragraph 3.

1 4. Intel does not have knowledge or information sufficient to form a belief as to the
2 truth of the allegations in Paragraph 4 and therefore denies the same.

3 5. Intel admits that it has a corporate office at 2200 Mission College Boulevard,
4 Santa Clara, California 95052.

5 **INTRADISTRICT ASSIGNMENT**

6 6. Intel admits that this case purports to be an action for patent infringement, which is
7 assigned on a district-wide basis pursuant to Civil L.R. 3-2(c).

8 **CAUSES OF ACTION FOR PATENT INFRINGEMENT**

9 7. Intel admits that the '679 Patent is titled "Visibility Calculations for 3D Computer
10 Graphics and issued on January 9, 2001. Intel denies the remaining allegations of Paragraph 7 of
11 the Complaint.

12 8. Intel does not have knowledge or information sufficient to form a belief as to the
13 truth of the allegations in Paragraph 8 and therefore denies the same.

14 9. Intel does not have knowledge or information sufficient to form a belief as to the
15 truth of the allegations in Paragraph 9 and therefore denies the same.

16 10. Intel admits that the '047 Patent is titled "Visibility Calculations for 3D Computer
17 Graphics and issued on September 9, 2003. Intel denies the remaining allegations of Paragraph
18 10 of the Complaint.

19 11. Intel does not have knowledge or information sufficient to form a belief as to the
20 truth of the allegations in Paragraph 11 and therefore denies the same.

21 **COUNT ONE**

22 12. Intel hereby incorporates by reference its responses to Paragraph 1-11 above.

23 13. Paragraph 13 states legal conclusions as to which no response is required. To the
24 extent a response is required, Intel denies the allegations.

25 **COUNT TWO**

26 14. Intel hereby incorporates by reference its responses to Paragraphs 1-11 above.

27 15. Paragraph 13 states legal conclusions as to which no response is required. To the
28 extent a response is required, Intel denies the allegations.

1 **SIXTH AFFIRMATIVE DEFENSE**

2 23. Plaintiff is barred by 35 U.S.C. § 287 from recovering any damages for any
3 alleged infringement of the '679 Patent or '047 Patent that occurred prior to actual, affirmative
4 notice by Plaintiff or the filing of the Complaint.

5 **SEVENTH AFFIRMATIVE DEFENSE**

6 24. Plaintiff's claims for recovery against Intel are barred, in whole or in part, by 35
7 U.S.C. § 286.

8 **EIGHTH AFFIRMATIVE DEFENSE**

9 25. Plaintiff is not entitled to injunctive or equitable relief with respect to Intel because
10 Plaintiff has not suffered any irreparable injury and Plaintiff has an adequate remedy at law.
11 Moreover, because both the '679 and '047 patents have expired, Plaintiff is precluded from
12 obtaining injunctive relief.

13 **NINTH AFFIRMATIVE DEFENSE**

14 26. Even if Plaintiff was to prevail in its claims against Intel, Intel has engaged in all
15 relevant actions in good faith, thereby precluding Plaintiff from recovering any attorney's fees
16 and/or costs under 35 U.S.C. § 285.

17 **TENTH AFFIRMATIVE DEFENSE**

18 27. Plaintiff has failed to plead sufficiently to meet the requirements of 35 U.S.C.
19 § 284 for enhanced damages.

20 **INTEL'S COUNTERCLAIMS**

21 Pursuant to Rule 13 of the Federal Rules of Civil Procedure, Defendant and Counterclaim-
22 Plaintiff Intel for its counterclaims against Plaintiff and Counterclaim-Defendant Fuzzysharp
23 Technologies Incorporated ("FuzzySharp") alleges as follows:

24 **THE PARTIES**

25 1. Intel is a California corporation with a principal place of business at 2200 Mission
26 College Boulevard, Santa Clara, California 95052.

27 2. Intel is informed and believes, and on that basis alleges, that Plaintiff is a Nevada
28 corporation.

JURISDICTION

3. These counterclaims arise under the Patent Act, 35 U.S.C. § 101 et seq., and the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. An actual controversy exists between Intel and Plaintiff regarding the '679 Patent and the '047 Patent. Plaintiff has asserted that Intel infringes one or more claims of the '679 Patent and the '047 Patent. Intel denies that it infringes any claim of the '679 Patent or the '047 Patent and contends that any relevant claims of the '679 Patent and '047 Patent are invalid.

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

COUNT ONE

Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,172,679

5. Intel repeats and incorporates the allegations in Paragraph 1-4 as though fully set forth herein.

6. In its Complaint, Plaintiff alleges that it is the owner of the '679 Patent and that Intel infringes the '679 Patent.

7. Intel is not infringing, and has not infringed, either directly, contributorily, or by inducement, any valid, enforceable claim of the '679 Patent, either literally or under the doctrine of equivalents.

8. There exists an actual and justiciable controversy between Intel and Plaintiff with respect to the noninfringement of the claims of the '679 Patent.

9. Accordingly, Intel hereby seeks entry of a declaratory judgment that it does not infringe any claim of the '679 Patent.

10. This is an exceptional case entitling Intel to an award of its attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. § 285.

COUNT TWO

Declaratory Judgment of Invalidity of U.S. Patent 6,172,679

11. Intel repeats and incorporates the allegations in Paragraphs 1-10 as though fully set forth herein.

12. One or more claims of the '679 Patent are invalid under the patent laws of the United States as follows:

(a) One or more of the claims of the '679 Patent are not patentable because the alleged inventions claimed therein do not constitute patentable subject matter as set forth in 35 U.S.C. § 101;

(b) One or more of the claims of the '679 Patent are invalid under 35 U.S.C. § 102 because the alleged inventions claimed therein are anticipated by one or more prior art references;

(c) One or more of the claims of the '679 Patent are invalid under 35 U.S.C. § 103 because the alleged inventions claimed therein are obvious to one having ordinary skill in the art in view of one or more prior art references; and

(d) One or more of the claims of the '679 Patent are invalid under 35 U.S.C. § 112 because the specifications thereof do not contain adequate written descriptions of the alleged inventions, the manner and process of making and using the alleged inventions, and/or do not conclude with one or more claims particularly pointing out and distinctly claiming the subject matter.

13. There exists an actual and justiciable controversy between Intel and Plaintiff with respect to the invalidity of the claims of the '679 Patent.

14. Accordingly, Intel hereby seeks entry of a declaratory judgment that the claims of the '679 Patent are invalid.

15. This is an exceptional case entitling Intel to an award of its attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. § 285.

COUNT THREE

Declaratory Judgment of Non-Infringement of U.S. Patent No. 6,618,047

16. Intel repeats and incorporates the allegations in Paragraph 1-15 as though fully set forth herein.

17. In its Complaint, Plaintiff alleges that it is the owner of the '047 Patent and that Intel infringes the '047 Patent.

18. Intel is not infringing, and has not infringed, either directly, contributorily, or by inducement, any valid, enforceable claim of the '047 Patent, either literally or under the doctrine of equivalents.

19. There exists an actual and justiciable controversy between Intel and Plaintiff with respect to the non-infringement of the claims of the '047 Patent.

20. Accordingly, Intel hereby seeks entry of a declaratory judgment that it does not infringe any claim of the '047 Patent.

21. This is an exceptional case entitling Intel to an award of its attorneys' fees incurred in connection with this action pursuant to 35 U.S.C. § 285.

COUNT FOUR

Declaratory Judgment of Invalidity of U.S. Patent 6,618,047

22. Intel repeats and incorporates the allegations in Paragraphs 1-21 as though fully set forth herein.

23. One or more claims of the '047 Patent are invalid under the patent laws of the United States as follows:

(a) One or more of the claims of the '047 Patent are not patentable because the alleged inventions claimed therein do not constitute patentable subject matter as set forth in 35 U.S.C. § 101;

(b) One or more of the claims of the '047 Patent are invalid under 35 U.S.C. § 102 because the alleged inventions claimed therein are anticipated by one or more prior art references;

(c) One or more of the claims of the '047 Patent are invalid under 35 U.S.C. § 103 because the alleged inventions claimed therein are obvious to one having ordinary skill in the art in view of one or more prior art references; and

(d) One or more of the claims of the '047 Patent are invalid under 35 U.S.C. § 112 because the specifications thereof do not contain adequate written descriptions of the alleged inventions, the manner and process of making and using the alleged inventions, and/or do

1 not conclude with one or more claims particularly pointing out and distinctly claiming the subject
2 matter.

3 24. There exists an actual and justiciable controversy between Intel and Plaintiff with
4 respect to the invalidity of the claims of the '047 Patent.

5 25. Accordingly, Intel hereby seeks entry of a declaratory judgment that the claims of
6 the '047 Patent are invalid.

7 26. This is an exceptional case entitling Intel to an award of its attorneys' fees incurred
8 in connection with this action pursuant to 35 U.S.C. § 285.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Intel denies that any of its products infringe any valid claims of the '679
11 Patent and the '047 Patent and seeks an order granting the following relief:

- 12 a. That Plaintiff take nothing by its Complaint, and that the Complaint be
13 dismissed with prejudice;
- 14 b. That judgment be entered declaring that the claims of the '679 Patent and
15 the '047 Patent are not infringed;
- 16 c. That judgment be entered declaring that the claims of the '679 Patent and
17 the '047 Patent are invalid;
- 18 d. That judgment be entered declaring that this is an exceptional case,
19 pursuant to 35 U.S.C. § 285 and/or other applicable laws, and awarding
20 Intel its attorneys' fees incurred in connection with this action;
- 21 e. For Intel's costs and expenses; and
- 22 f. For such other and additional relief as this Court deems just and proper.

23 Dated: November 28, 2012

PERKINS COIE LLP

24 By: /s/ James F. Valentine

25 James F. Valentine
JValentine@perkinscoie.com

26 Attorneys for Defendant and Counterclaim-
27 Plaintiff INTEL CORPORATION
28

DEMAND FOR JURY TRIAL

Defendant and Counterclaim-Plaintiff Intel demands a jury trial pursuant to Rule 38(b) of the Federal Rules of Civil Procedure.

Dated: November 28, 2012

PERKINS COIE LLP

By: /s/ James F. Valentine

James F. Valentine

JValentine@perkinscoie.com

Attorneys for Defendant and Counterclaim-
Plaintiff INTEL CORPORATION

CERTIFICATE OF SERVICE

I certify that, on November 28, 2012, I electronically filed the foregoing with the Clerk of the United States Court for the Northern District of California by using the CM/ECF system.

By: /s/ James F. Valentine
James F. Valentine